

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

OS ENTERPRISE, LLC,

No. C -11 -04375 SBA (EDL)

Plaintiff,

**ORDER GRANTING PLAINTIFF'S
MOTION TO COMPEL AND DENYING
PLAINTIFF'S REQUEST FOR
SANCTIONS AND FEES**

v.

FAIRLINE DEVELOPMENT CANADA (1992)
LTD., and TAWA SUPERMARKET, INC. dba
99 Ranch Market,

Defendant.

Plaintiff OS Enterprise, LLC, alleges that Defendant Fairline Development Canada infringed on Plaintiff's trademark when Defendant used that trademark to sell, market, and advertise chicken products in the United States, including the San Francisco Bay Area. On May 15, 2012, Plaintiff served its Request for Production of Documents, Set One, and Interrogatories, Set One to Fairline. According to Plaintiff, Defendant did not provide any documents or responses by the June 19, 2012 deadline. Having received no discovery from Defendant, Plaintiff filed this motion to compel and motion for sanctions on May 17, 2013. Judge Armstrong referred the motion to the Court on May 22, 2013. Docket No. 32. Defendant did not file an opposition to either motion. Because the matter is appropriate for decision without oral argument, the June 25, 2013 hearing is vacated.

Generally, parties can obtain non-privileged items as long as they are relevant to the claim or defense at hand. F. R. Civ. P. 26(b) (1). Both interrogatories and request for productions require a response within thirty days unless the parties agree otherwise. Fed. R. Civ. P. 33(b)(2), 34(b)(2)(A). If the interrogatories and request for productions are not responded to within the allotted time frame, all objections are waived. Fed. R. Civ. P. 33(b)(4); Richmark Corp. v. Timber Falling Consultants, 959 F.2d 1468, 1473 (9th Cir. 1992).

1 Plaintiff's discovery requests appear to seek relevant information regarding the trademark
2 and seem to be within the scope of this case. Moreover, Defendant has not responded to the requests
3 for 12 months, despite several attempts by Plaintiff's counsel to meet and confer on the subject. See
4 Declaration of Kevin R. Martin, Docket No. 31, at ¶ 7. Defendant has not opposed the motion and
5 there is no indication that Defendant has objected to the discovery request. Therefore, Defendant has
6 waived all objections. Plaintiff's motion to compel is hereby GRANTED. Defendant shall respond
7 to Plaintiff's discovery request no later than July 15, 2013.

8 Plaintiff's motion for sanctions to be awarded attorneys' fees is hereby DENIED for failure
9 to file a separate motion. Any motion for sanctions must be filed separately in compliance with Civil
10 Local Rule 37-4.

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15 **IT IS SO ORDERED.**
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19 Dated: June 14, 2013



ELIZABETH D. LAPORTE

Chief United States Magistrate Judge